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The Rohingya Crisis and Implications for Sri Lanka

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This commentary looks at the recent humanitarian crisis involving Myanmar's Rohingya community from a Sri Lankan perspective. In particular, it considers implications of the crisis for Sri Lanka. We suggest that the crisis requires Sri Lanka to formulate a national policy on refugees, in its drive to become a better 'regional citizen.' In addition, we argue that the deteriorating situation in Myanmar serves as an implicit warning for Buddhist-Muslim relations in Sri Lanka.

The Rohingya Community

The Rohingya are a largely Muslim ethnic minority concentrated in Myanmar's Rakhine State, (historically referred to as the Arakan State). They make up about 3% of the population in a country where Buddhists constitute nearly 90%.¹

The origins of the Rohingya are contested; they have been variously described as indigenous inhabitants of Rakhine state, or—in the explanation preferred by the government of Myanmar—as settlers in Rakhine after 1823.² Despite their roots in the Rakhine state, the Rohingya are not recognised by the Myanmar government as citizens of the country and are considered stateless people.³ The Rohingya have also suffered from systemic sectarian violence since at least 2012⁴ at the hands of Buddhist Myanmar.

Snapshot of the Crisis

Since 2017, the violence against the Rohingya has escalated to include repeated violations of international human rights and humanitarian law, such as extrajudicial killings, enforced disappearances, destruction of property, torture, rape, other forms of sexual violence, and forced labour. Myanmar's military has further been implicated in conducting "clearance operations" in over 300 Rohingya villages,⁵ resulting in the complete destruction of these villages. According to the office of the United Nations High Commissioner for Refugees (UNHCR), since 2017, over 671,000⁶ Rohingya have crossed from Myanmar into Bangladesh, joining approximately 135,000 others⁷ who fled in earlier waves of displacement. A United Nations Fact-Finding Mission, whose final report will be published at the end of 2018, is expected to emphasise not only the widespread nature of the violence against Rohingya communities, but also the inadequate response of Myanmar's government in protecting Rohingya civilians from human rights abuses.⁸

ROHINGYA REFUGEES IN SRI LANKA

MARCH 2008

- 55 Rohingya refugees rescued by the Sri Lanka Navy.
- The group left Sri Lanka by July 2012.

01

FEBRUARY 2013

- 170 Myanmar asylum seekers rescued from a shipwreck on the Eastern coast of Sri Lanka.

02

- They were found in two boats - 138 in one boat and 32 in the other.

- The group left Sri Lanka by November 2015.

APRIL 2017

- 30 Rohingya refugees rescued by the Sri Lanka Navy
- The group left Sri Lanka by September 2017

03

Source: Daily FT & Ministry of Finance (September 2017)

The violence towards the Rohingya stems from three widespread perceptions⁹ among the Buddhist Myanmarese. Firstly, they believe that the Rohingya population in Myanmar is growing exponentially, at a rate that will make Buddhists a minority. Secondly, it is believed that Bangladesh is sending their ‘extra’ citizens to the Rakhine state, further bolstering the Muslim population there. Thirdly, Buddhist nationalists in Myanmar claim that the Rohingya do not have the right to live in the Rakhine state, as it belongs to the ‘original’ Buddhist Myanmarese.

Implications for Sri Lanka

1. Sri Lanka has an opportunity to cultivate international goodwill by accepting and protecting Rohingya refugees. Since 2008, Sri Lanka, working with the UNHCR, has provided temporary asylum to Rohingya Muslims on at least three occasions.¹⁰ First, in 2008, for 55 Rohingya; then in 2013, for 170 Rohingya;¹¹ and most recently, in April 2017,¹² for 30 Rohingya. On all of these occasions, the fleeing Rohingyas were rescued by the Sri Lanka Navy.
2. However, the growing number of Rohingya refugees in the region also highlights the absence of political will and national policy in Sri Lanka to deal humanely with asylum-seekers and to integrate refugees. It should be noted that “refugees” are persons recognised as having a well-founded fear of persecution in their home countries, while “asylum-seekers” are persons who claim to be refugees and await recognition of this status. Sri Lanka has not ratified the 1951 Convention relating to the Status of Refugees (the “1951 Convention”) or its 1967 Protocol, and also lacks national legislation.¹³ Asylum-seekers in Sri Lanka are under the care of the UNHCR, who—pursuant to a 2005 Memorandum of Understanding with the Government of Sri Lanka—decides whether they have the status of ‘refugees’ and provide limited financial support.¹⁴ Asylum-seekers and refugees registered with the UNHCR receive state healthcare in Sri Lanka but they cannot be employed and their children are not entitled to free education. The lack of a national policy in Sri Lanka means that most asylum-seekers can either be voluntarily repatriated to their home countries or if recognised as refugees, be resettled in third-countries.¹⁵
3. Sri Lanka can also draw parallels and lessons from the situation in Myanmar for its own Buddhist-Muslim relations. Of critical concern is the recurrence of anti-Muslim riots in Sri Lanka in recent years, which have also attracted international censure.¹⁶ Majoritarian sentiment has spilt over to affect Rohingya refugees in Sri Lanka. In 2017, a group of Buddhist monks and hardline nationalists were reported to have stoned the shelter¹⁷ that housed a small group of 30 Rohingya asylum-seekers,¹⁸ comprising mainly women and children. The nationalists had engaged in protests, chanting “Rohingya are terrorists,”¹⁹ and accused the asylum seekers of having killed Buddhist monks in Myanmar. There is an urgent need in both Sri Lanka and Myanmar to address the impunity of instigators, and the role of the clergy, in promoting such violence.

Recommendations for Sri Lanka

1. Even if it is not party to the 1951 Convention or 1967 Protocol, Sri Lanka should ensure it meets its obligations under customary international law²⁰ to asylum-seekers. For example, the customary international principle of non-refoulement requires that Sri Lanka does not oblige people to return to a country where they may be subject to persecution. Sri Lanka should approach the Rohingya crisis with sensitivity and protect Rohingya asylum seekers according to international law; if necessary by reaching out to civil society and the international community to fill gaps in its capacity and resources.
2. Moreover, Sri Lanka must develop a national policy on asylum-seekers,²¹ to determine refugee status and integrate refugees into Sri Lankan society. As of January 2018, Sri Lanka had 822 refugees and 628 asylum-seekers from other countries.²² If it chooses not to ratify the 1951 Convention, it could review the policies of other non-signatory states for potential adoption in Sri Lanka. For example, although Hong Kong is not bound by the 1951 Convention, it introduced a ‘unified screening mechanism’²³ in 2014 for asylum-seekers, which may offer learning opportunities.
3. The Sri Lankan government should urgently prioritise ensuring the equal rights of all Sri Lankans—including its Muslim and other minorities—to prevent sectarian violence from escalating. The escalation of violence in Myanmar is a stark reminder of the critical need to avoid a rise in nationalist sentiment that may result in mass violence and human rights atrocities. The state must ensure that it responds to any violence and other violations swiftly and lawfully, without discrimination. In particular, it must not shy away from implementing the law against Buddhist clergy who promote or engage in violence.
4. Statistics indicate that there are 132,782 Sri Lankan refugees and 14,008 Sri Lankan asylum-seekers in other countries, mainly in India.²⁴ Sri Lanka’s experience in reintegrating and resettling²⁵ those who have returned to the island may offer an opportunity for dialogue and knowledge-sharing with Myanmar on best practices in refugee resettlement. Sri Lanka’s experience with internally displaced persons (IDPs) may also offer a basis for dialogue. In 2016, Sri Lanka adopted a National Policy on Durable Solutions for Conflict-Affected Displacement²⁶ to implement sustainable solutions on resettlement, land rights and housing, which may be useful to stakeholders in Myanmar.

Looking forward, Sri Lanka should not hesitate to condemn any systematic violence in Myanmar, and ensure the well-being of Rohingya people in Sri Lanka’s jurisdiction. It should form a national policy on refugees and asylum-seekers in view of the suffering and human rights of these persons. The current impunity of instigators of sectarian violence in Sri Lanka must also be dealt with through an efficient and impartial application of existing laws. This is particularly important, given Sri Lanka’s problematic history and recent experience of ethnic relations, and the continued struggles of refugee returnees to the country.

Notes

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⁵ United Nations Human Rights Council. (2018). *Statement by Mr. Marzuki Darusman, Chairperson of the Independent International Fact-Finding Mission on Myanmar, at the 37th session of the Human Rights Council*. Available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22798&LangID=E>.

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⁷ Ibid.

⁸ United Nations Human Rights Council. (2018). *Statement by Mr. Marzuki Darusman, Chairperson of the Independent International Fact-Finding Mission on Myanmar, at the 37th session of the Human Rights Council*. Available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=22798&LangID=E>.

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¹¹ Daily FT. (2017). *No Rohingya refugees in Sri Lanka: Govt*. Available at: <http://www.ft.lk/news/No-Rohingya-refugees-in-Sri-Lanka--Govt-/56-639900>.

¹² Ibid.

¹³ UN High Commissioner for Refugees (UNHCR). (2018). *Sri Lanka*. Available at <http://reporting.unhcr.org/node/10315>.

¹⁴ UN High Commissioner for Refugees (UNHCR). (2017). *UNHCR Submission on Sri Lanka: UPR 28th Session*. Available at <http://www.refworld.org/docid/5a12ae1f2.html>.

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- ¹⁶ Hewage, Senal et al (2018). *International Reactions to Anti-Muslim Riots in Sri Lanka*. Available at: <http://www.lki.lk/blog/international-reactions-to-anti-muslim-riots/>.
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